

# Exhibit 4

**From:** Ramsey, Gabriel M. gramsey@orrick.com  
**Subject:** FW: Activity in Case 6:12-cv-00499-MHS Blue Spike, LLC v. Texas Instruments, Inc. Motion to Strike  
**Date:** April 21, 2014 at 8:22 PM  
**To:** Randall Garteiser rgarteiser@ghiplaw.com, Christopher Honea chonea@ghiplaw.com, Peter Brasher pbrasher@ghiplaw.com, bluespike@ghiplaw.com  
**Cc:** Walter Lackey wlackey@findlaycraft.com, Eric Findlay efindlay@findlaycraft.com, Higgins, Christopher J. chiggins@orrick.com, Caridis, Alyssa acaridis@orrick.com

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Randall,

We're surprised by your email and completely disagree with your characterization of this matter. Blue Spike was supposed to serve sufficient contentions on February 26. We let you know our concerns shortly after that and you just dragged your feet in responding. We gave you the courtesy of permitting you to provide amended contentions informally, in the service of negotiation. We expected that we would get something that resolved all of our concerns. Instead, we received revised contentions that revealed, for a great number of the claims, that Blue Spike has no basis whatsoever, and Blue Spike wouldn't provide any further detail at all with respect to the customer defendants. We detailed these concerns in writing and gave you until last Wednesday the 16th to respond to the deficiencies. You refused to respond at all. You can't just delay the process indefinitely, in order to prevent us from getting some relief, particularly given the important role that the infringement contentions have in managing the scope of discovery and the burden of the case. In response to our letter, you did not offer to withdraw the baseless claims enumerated in our letter and motion, did not specifically identify evidence and corresponding claim elements, did not provide detailed doctrine of equivalents contentions and did not withdraw the accusation of design consultation and support services. You did not respond at all. Accordingly the matter is ripe for motion practice.

Our motion, of course, is directed at the operative contentions and, as we know that it will be futile to allow leave to amend with respect to large swathes of Blue Spike's contentions based on our negotiations, it is appropriate to pose that issue now.

Finally, as to the discussion of Rule 11 – you obviously are cognizant that it is not a Rule 11 motion – but there is nothing preventing us from invoking that rule to demonstrate the more general point about the deficiency of Blue Spike's investigation and preparation of its contentions.

In any event, we are available Wednesday at 11am Central time for a conference to discuss these things. Please send a calendar invitation and dial-in information for the call.

Sincerely,

Gabe

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**From:** Randall Garteiser [<mailto:rgarteiser@ghiplaw.com>]  
**Sent:** Monday, April 21, 2014 5:08 PM  
**To:** Ramsey, Gabriel M.; Chatterjee, I. Neel; Eric Findlay; Walter Lackey  
**Cc:** Christopher Honea; Kirk Anderson; Peter Brasher; [bluespike@ghiplaw.com](mailto:bluespike@ghiplaw.com)  
**Subject:** Fwd: Activity in Case 6:12-cv-00499-MHS Blue Spike, LLC v. Texas

~~Subject: Activity in Case 6:12-cv-00499-MHS Blue Spike, LLC v. Texas~~  
Instruments, Inc. Motion to Strike

Counsel:

We would like to discuss the failure to meet and confer on this motion to strike at your earliest convenience. The last communication Blue Spike received from Audible Magic was a letter from Mr. Higgins indicating that Audible Magic preserved its rights. It did not even discuss setting up a time to meet and confer about the revised infringement contentions blue spike provided at Audible Magic's request.

Before we could even respond to Mr. Higgins' letter now Audible Magic is filing a discovery related motion without a proper meet and confer. It seems intentional as Mr. Ramsey said originally this would be a back and forth process, but then this motion is fired off after Blue Spike spent resources in an attempt to appease Audible Magic and avoid motion practice.

Also, please be prepared to discuss in particular the Rule 11 violation section. We never received a Rule 11 related motion. This is a prerequisite to filing a Motion for Rule 11 relief. If you contend that this is not a Rule 11 motion, we disagree and expect obtain an agreement that the loser pays attorneys fees provision of Rule 11 applies to Blue Spike paying to respond to these accusations and this improperly filed motion. Also, please be prepared to discuss the relief Audible magic is seeking.

I am available between anytime between 9 am and noon Central tomorrow or anytime on Wednesday. We need your lead counsel and local counsel on the call.

Thanks in advance for your cooperation in handling these issues.

Be well,  
Randall

Begin forwarded message:

**From:** [txedCM@txed.uscourts.gov](mailto:txedCM@txed.uscourts.gov)  
**Date:** April 21, 2014 at 6:28:01 PM CDT  
**To:** [txedcmcc@txed.uscourts.gov](mailto:txedcmcc@txed.uscourts.gov)  
**Subject:** Activity in Case 6:12-cv-00499-MHS Blue Spike, LLC v. Texas Instruments, Inc. Motion to Strike

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**U.S. District Court [LIVE]**

**Eastern District of TEXAS**

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The following transaction was entered by Findlay, Eric on 4/21/2014 at 6:27 PM CDT and filed on 4/21/2014

**Case Name:** Blue Spike, LLC v. Texas Instruments, Inc.

**Case Number:** [6:12-cv-00499-MHS](#)

**Filer:** Accedo Broadband AB  
Accedo Broadband NA, Inc.  
Audible Magic Corporation  
Boodabee Technologies Inc.  
Brightcove, Inc.  
Coincident.TV, Inc.  
Dailymotion S.A.  
Dailymotion, Inc.  
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Soundcloud, Inc.  
Specific Media, LLC  
WiOffer, LLC  
Van tv Inc

~~rap.tv, inc.~~  
Zedge Holdings, Inc.  
iMesh, Inc.

**Document  
Number:** [1469](#)

**Docket Text:**

**MOTION to Strike *Blue Spike's Infringement Contentions* by Accedo Broadband AB, Accedo Broadband NA, Inc., Audible Magic Corporation, Boodabee Technologies Inc., Brightcove, Inc., Coincident.TV, Inc., Dailymotion S.A., Dailymotion, Inc., Facebook, Inc., GoMiso, Inc, Harmonix Music Systems, Inc., Mediafire, LLC, Metacafe, Inc., MySpace, LLC, Myxer, Inc., [Photobucket.com](#), Inc., Qlipso Media Networks Ltd., Qlipso, Inc., Soundcloud Ltd., Soundcloud, Inc., Specific Media, LLC, WiOffer, LLC, Yap.tv, Inc., Zedge Holdings, Inc., iMesh, Inc.. (Attachments: # (1) Text of Proposed Order, # (2) Higgins Declaration, # (3) Exhibit 1, # (4) Exhibit 2, # (5) Exhibit 3, # (6) Exhibit 4, # (7) Exhibit 5, # (8) Exhibit 6, # (9) Exhibit 7, # (10) Exhibit 8, # (11) Exhibit 9, # (12) Exhibit 10, # (13) Exhibit 11, # (14) Exhibit 12, # (15) Exhibit 13, # (16) Exhibit 14)(Findlay, Eric)**

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**6:12-cv-00499-MHS Notice will not be electronically mailed to:**

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

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**Document description:**Text of Proposed Order

**Original filename:**n/a

**Electronic document Stamp:**

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**Document description:** Higgins Declaration

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**Document description:**Exhibit 3

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**Document description:**Exhibit 9

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